

REMARKS

The present response is to the Office Action mailed in the above-referenced case on February 21, 2006. Claims 19-29 are standing in the application. The Examiner rejects claims 22, 25 and 29 under 35 U.S.C. §112, second paragraph, as indefinite. In response the applicant has canceled all of the standing claims and entered new claims 30-33 that are similar to the combination of limitations of claims 26-29. Further the Examiner has rejected all of the standing claims under several §103(a) combinations.

In canceling the standing claims and entering four new claims 30-33, the rejection of claim 26, as detailed on page 5 of the Office Letter, in paragraph 5, is pertinent, because the combination of limitations in new independent claim 30 is similar to that of cancelled claim 26. In the rejection of claim 26 the Examiner has applied three prior art references, all of which teach structures for gloves, shoes and garments for humans, and are far from the intended uses of the present invention, although the applicant concedes that humans are indeed animals, and might benefit in some cases from applications of the present invention.

In the rejection the Examiner provides references that seem teach individual ones of the limitations of claim 26, and now claim 30; but the Examiner has provided very little insight to any motivation from any one of the references for making the combination. The applicant respectfully contends it is not enough in trying to create a prima facie rejection under 35 U.S.C. 103 to show that each of the limitations is somewhere taught in the prior art. There must also be motivation for making the combination. In the invention as claimed in claim 30 there are four essential limitations, these being fibers comprising PCM, fibers comprising rare earth elements, wicking capability through the composite material, and ability for air to flow through the composite material.

The inventor, through much research and trial, has discovered that there is a clear need for the rare earth material in a panel of this sort, to provide increased blood flow and oxygenation for the animal, but that this characteristic increases the need for temperature

management. The PCM provides some temperature management, but cannot provide sufficient energy uptake or contribution (depending on energy direction) to maintain a constant temperature for very long. The process must be aided by wicking of perspiration through the material which may then evaporate, providing cooling, and also by airflow through the material to provide a medium to either deliver heat or transport it away.

There is no motivation in the several references cited to make this combination, and no need in any one of the individual references for the missing characteristics, to accomplish the purpose of the individual reference. There is thus no motivation for the combination, unless the person making such a combination (in this case the Examiner) has knowledge of the need, which must come from having reviewed the applicant's claims and teaching.

So the lengthy combination of references must fail, and claim 30 is patentable over the 103 rejection based on the cited and applied references. Claims 31-33 are therefore patentable at least as depended from a patentable claim.

Applicant respectfully requests reconsideration, and that the present case be passed quickly to issue. If there are any time extensions needed beyond any extension specifically requested with this response, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,
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